

1 TO: CLERK,
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4 450 GOLDEN GATE AVENUE
5 SAN FRANCISCO, CA. 94102

OCT. 22, 2007

7 FROM: HAROLD WALKER V60211
8 C.T.F.-CENTRAL-0W134
9 P.O.BOX 689
10 SOLEDAD, CA. 93960

CD7-4228/JF

11
12 IN RE: HAROLD WALKER VS. JAMES TILTON, et al., AWI-DLB-HC #107-CV-01256

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14 I AM ASKING AND REQUESTING INFORMATION AND THE STATUS OF THE ABOVE
15 MENTION CASE NUMBER IN WHICH WAS TRANSFERRED TO THIS COURT FROM THE
16 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT COURT BY ORDER OF
17 TRANSFER DATED SEPTEMBER 10, 2007 BY U.S. MAGISTRATE JUDGE DENNIS
18 BECK (SEE ATTACHED).

19
20 THANK YOU.

21 RESPECTFULLY SUBMITTED,

22
23 BY: Harold Walker
24 HAROLD WALKER
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HAROLD WALKER, 1:07-cv-01256 AWI DLB HC
Petitioner,
vs. ORDER OF TRANSFER
JAMES TILTON,
Respondent.

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254, in which he challenges a decision reached by the Governor of the State of California/Board of Prison Terms regarding his suitability for parole. Petitioner has submitted an application to proceed in forma pauperis for this action.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." 28 U.S.C. § 1331(b).

In a habeas matter, venue is proper in either the district of conviction or the district of confinement. 28 U.S.C. § 2241(d). Where a petitioner attacks the execution of his sentence, the proper

1 forum in which to review such a claim is the district of confinement. See Dunn v. Henman, 875 F.2d
2 244, 249 (9th Cir. 1989) (stating, in a 28 U.S.C. § 2241 action, that "[t]he proper forum to challenge the
3 execution of a sentence is the district where the prisoner is confined.").

4 In this case, petitioner was sentenced in Fresno County Superior Court, which is located within
5 the Eastern District of California. He is currently incarcerated at the Correctional Training Facility, in
6 Monterey County, which lies within the Northern District of California. Because the instant petition is
7 premised on events relating to Petitioner's parole proceedings, the court construes it as a challenge to
8 the execution of petitioner's sentence, as opposed to an attack on the conviction itself. Thus, this matter
9 should be addressed in the forum where petitioner is confined. Therefore, the petition should have been
10 filed in the United States District Court for the Northern District of California. In the interest of justice,
11 a federal court may transfer a case filed in the wrong district to the correct district. See 28 U.S.C. §
12 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

13 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
14 District Court for the Northern District of California.

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16 IT IS SO ORDERED.

17 Dated: September 10, 2007

18 /s/ Dennis L. Beck
19 UNITED STATES MAGISTRATE JUDGE
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MIME-Version:1.0 From:caed_cmecl_helpdesk@caed.uscourts.gov
To:caed_cmecl_nef@localhost.localdomain Message-ID: Subject:Activity in Case
1:07-cv-01256-AWI-DLB (HC) Walker v. Tilton Order Content-Type: text/html

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U.S. District Court

Eastern District of California - Live System

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Case Name: (HC) Walker v. Tilton

Case Number: 1:07-cv-1256

Filer:

**WARNING: CASE CLOSED on
09/10/2007**

Document Number: 4

Docket Text:

ORDER, CASE TRANSFERRED to District of CA/Northern signed by Judge Dennis L. Beck on 09/10/2007.
CASE CLOSED. (Esteves, C)

1:07-cv-1256 Electronically filed documents will be served electronically to:

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The following document(s) are associated with this transaction: